

FREDERICK COUNTY PLANNING COMMISSION
Meeting Minutes
August 11, 2010

Commission Members Present:

Richard Floyd
Catherine Forrence, Chair
Kai Hagen, BoCC Liaison
Robert Lawrence

John McClurkin, Secretary
Robert White, Vice Chair
Audrey Wolfe

Planning Staff Present:

Tim Blaser, Agricultural Preservation Administrator
Anne Bradley, Agricultural Preservation Planner
Janet Davis, Historic Preservation Planner
Mark Depo, Deputy Director, Div. of Planning
Tolson DeSa, Planner, DPDR
Jim Gugel, Chief Planner, Planning
Gary Hessong, Director, DPDR
Shawna Lemonds, Project Manager, Planning
Mary McCullough, GIS Technician
Kathy Mitchell, Asst. County Attorney
Eric Soter, Director, Div. of Planning
Betsy Smith, Deputy Director, DPDR
Larry Smith, Zoning Administrator

9:30 A.M.

MORNING SESSION

CHAIR FORRENCE BROUGHT THE MEETING TO ORDER AT 9:30 A.M.

PLANNING COMMISSION COMMENTS

Mr. White commended Mr. Eric Soter, Planning Director, on his presentation during an informational session in which Mr. White had attended earlier in the week.

MINUTES

a. July 14, 2010

MOTION: Mr. White made a motion to approve the July 14, 2010 minutes, as corrected, 2nd by Ms. Wolfe.

White/2nd Wolfe - Approved 6-0-1-0

Yeas-6 (White, Wolfe, Forrence, Hagen, Lawrence, McClurkin), Nays-0, Abstain- 1 (Floyd), Absent- 0

b. June 16, 2010

MOTION: Mr. White made a motion to approve the June 16, 2010 minutes, 2nd by Ms. Wolfe.

c. White/2nd Wolfe - Approved 6-0-1-0

Yeas-6 (White, Wolfe, Floyd, Forrence, Hagen, McClurkin), Nays-0, Abstain- 1 (Lawrence), Absent- 0

SKETCH PRELIMINARY PLAN

- a. Mayne Property** – Sketch Preliminary Plan application for non-binding review and comment. Requesting non-binding discussion and comment on the proposed road alignment across the Mayne Property connecting Daysville Road and MD Route 550. This sketch application is also requesting feedback on locating required recreation land across Daysville Road adjacent to the existing Liberty

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FREDERICK COUNTY PLANNING COMMISSION

Meeting Minutes

August 11, 2010

Elementary School playing fields. Preliminary Plan is proposing 132 Single-family detached dwelling, 33 Townhouses, and 25 Townhouse MPDU's; for a total of 190 units. Located at the corner of MD Route 26 and Daysville Road. Zoned: R-3 and General Commercial (GC), Walkersville Planning Region. Tax Map 50 & 51 / Parcel 64. File S1157, AP# 10707

Findings/Recommendations:

The Sketch Plan was submitted under the Subdivision Ordinance Section 1-16-59 to the FcPc for non-binding review and comment. Therefore, the FcPc will not be voting on this application at this time. If this application proceeds to the Preliminary Plan as well as the Site Plan phase of development, the FcPc will have two additional opportunities to review, comment, and provide a recommendation on this development.

As previously stated, APFO and FRO as well as all other development issues will be reviewed during the submission of the Preliminary Site Plan.

Staff Recommends that the FcPc provide non-binding review and comment on:

1. The proposed alignment of the main through road within the proposed Mayne Property; and
2. The proposed placement of 1.58 acres of active recreation lands adjacent to the Liberty Elementary School.

Staff Presentation:

Tolson DeSa and Betsy Smith presented the Staff report along with a PowerPoint presentation.

Discussion:

Referencing Exhibit #1 of the Staff report, Mr. White questioned whether a long term Libertytown bypass is actually being considered and suggested that once that is determined, then base discussions on that. Until then, he was agreeable with the "purple line" representing the proposed collector going through the Mayne Property.

Mr. Hagen stated that during the Comprehensive Plan discussions, the BoCC had discussed a bypass that included a multiple connections between the major roads that come into Libertytown. The BoCC decided to remove all of those except for the one minor arterial the runs between MD 550 and MD 75 to facilitate truck traffic to reduce truck traffic on MD 26 through the historic town district. He suggested eliminating the "yellow line" representing the collector originally proposed in the Comprehensive Plan and the bypass concept all together in light of those discussions during the update process.

Mr. Floyd questioned the location of the pedestrian access to the proposed active recreation are near the Elementary school site.

Mr. DeSa stated access issues will be resolved at the Preliminary plan and Site plan stages.

Mr. Soter elaborated on the Comprehensive Plan process in relation to the bypass discussion stating the reason the arterial piece was kept between MD 550 and MD 75 was to isolate the known truck movements. Staff recognized it as an alternate truck route and encouraged the BoCC to keep that connection in order to pull the trucks off earlier without going through town and improve the turn movement north to south. I agreed with the DPDR staff in that they was met intent by providing a connection between MD 550 and Daysville so people in the community can disperse either way but the a bypass in its truest sense is not likely.

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FREDERICK COUNTY PLANNING COMMISSION
Meeting Minutes
August 11, 2010

Ms. Forrence asked whether traffic counts from SHA were acquired.

Staff stated truck information will be available when during APFO stage process.

Ms. Wolfe questioned whether the distance is feasible for the neighborhood children to walk to school and suggested a signal light at the intersection or pedestrian overpass. She also suggested a location for a transit station in the event the line would be extended to that area.

Mr. DeSa stated the Applicant has proffered a lighted cross walk described as a typical flashing pedestrian signal with a cross walk with a crossing guard during school hours.

Ms. Forrence reiterated the consideration of traffic counts, especially at the school intersection.

Mr. Lawrence concurred with Ms. Forrence. He also stated that on the plan, He noticed the pedestrian pathway ends at Daysville Road and expressed concern that there are no sidewalks along Daysville Road. He suggested something be done about providing sidewalks from the intersection of with Rt. 26 where the bike path come out up toward the school up to Anton Street.

Ms. Smith stated Staff would attempt to confirm the route children in the area actually walk to school.

Mr. White stated an extension of the pedestrian pathway trail system that is in place and headed toward the crossing of Daysville Road from the area that is down in the southeast section of the development would resolve some of the problem.

Mr. McClurkin questioned whether the Applicant could increase the number of units on the existing property if they take the 1.58 acres across the road from the school.

Mr. DeSa stated it would not give the Applicant more density. Staff is recommending the Applicant look at creating more informal open space areas within the development portion on the 67 acres.

Ms. Smith added that the amount of density on site is based on the acreage on the north side of Daysville Road regardless of whether the 1.58 acres wasn't added to the core development area to determine the density.

Applicant:

Burt Newcomer of RSB Holdings, LLC

Public Comment:

None

ACTION: *No Formal Action Required- Informational Item Only*

PARKS AND RECREATION

- a. **Point of Rocks Community Commons Park Preliminary Master Plan**- The Division of Parks and Recreation presentation/overview of the Point of Rocks Community Commons Park Preliminary Master Plan for Planning Commission review and comment.

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FREDERICK COUNTY PLANNING COMMISSION

Meeting Minutes

August 11, 2010

Staff and Committee Findings/Recommendations:

Several suggestions, comments, and conditions were made by the Master Plan Committee and Staff that give further direction and are incorporated in the Master Plan.

- The entire park is within a flood plain. Activities within the Federal Emergency Management Agency (FEMA) floodplain are subject to regulations of the State of Maryland, Frederick County Flood Regulations and the FEMA and may require permits from MDE and /or the Corps. Of Engineers.
- No new development including parking lots and walking paths imperious to water, or fill or excavation operations in conjunction with development will be permitted.
- CSX has concerns about safety along the railroad and wants a deterrent to prevent/discourage park users from going onto the train tracks. Per the Plan the grass channel edges are to be planted with shrubs and grasses to provide a vegetative buffer to the train tracks.
- The storyboards within the park should stress the 'natural and historic legacy of Point of Rocks'.
- The County owned property to the west of Ballenger Creek Pike should be selectively cleared of invasive plants and re-vegetated with native species.
- The Committee would like the County & State Highway Administration to pursue constructing a sidewalk along the north side of Clay Street (MD 28).
- The feature in the Plaza area whether a fountain or sculpture should be based on the theme that the site floods.
- The play areas should be a natural playground utilizing materials native to the areas and reflecting the historical character of the site.
- The existing wooded areas within the 50 ft. stream buffer is to be selectively cleared of invasive species and under planted with native trees and shrubs. Birdhouses should be incorporated into the area.
- A storyboard should be located prior to crossing Commerce Street to alert pedestrians of the railroad crossing and safety concerns.
- A "Canal Town" storyboard could be placed on the spur trail that connects to the C & O Canal listing the facilities in Point of Rocks and direction t the kiosk for hikers and bikers traveling the Canal tow path.
- The security lighting in the park should be pedestrian level lighting only (poles from 10 to 14 feet high). The lights should be on a timer so that they can be turned off at 11:00 p.m.

The Division of Parks and Recreation requested the Planning Commission review the master plan and provide comment.

Staff Presentation:

Bob Hicks, Deputy Director, Division of Parks and Recreation, along with Sally Malena and John Rohde of Human and Rohde, Inc. Landscape Architects presented the Staff report along with a PowerPoint presentation. Mr. Hick noted that this was the first Master plan that had a Planning Staff person (Shawna Lemonds) participate on the Advisory Committee.

Discussion:

The Planning Commission members discussed and expressed concern of the property being in a flood prone location.

The Applicants stated the issue of flooding was discussed at length and stated everything put on the site will anchored to stay in place and designed to withstand such conditions.

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FREDERICK COUNTY PLANNING COMMISSION

Meeting Minutes

August 11, 2010

Mr. McClurkin questioned why the Applicant proposed such extensive parking on the plan with the MARC Station and lot being next to the site.

Mr. Hicks stated they had looked at that option but the fact is the MARC parking lot belongs to MARC so they decided to specifically dedicate parking to the park rather than using the MARC train access.

Mr. Lawrence expressed concern about children playing in the park and the lack of fencing around the park with it being in close proximity to Clay Street, the MARC Station, CSX and commuter traffic. He also suggested restricting commuter access on Commerce Street.

Mr. Hicks stated it is against floodplain regulations to use fencing.

Mr. White commented on the Applicants' proposal to put trees on the site to buffer sound stating the trees would only buffer the site but not the sound. A State Acoustical Engineer in the past had advised the Planning Commission in that the only way to mitigate sound is through the use of berms.

Public Comment:

Chris Haugh, Scenic Byways Special Project Manager for the Tourism Council of Frederick County

Pat McGillen, Adjacent Property Owner

Pepper Scotto, Point of Rocks Ruritan Club and Point of Rocks Historical Society

ACTION: *No Formal Action Required- Informational Item Only*

BREAK AT 10:54 A.M.

MEETING RESUMED AT 11:06 A.M.

AGRICULTURAL LAND PRESERVATION

- a. **Maryland Agricultural Land Preservation Foundation (MALPF) Program - FY 11 MALPF Easement Applications-** Review of Applications for the purpose of determining consistency with the County Comprehensive Plan designation.

Staff Findings/Recommendations:

The program received 21 applications. The BoCC, during a worksession, voted to approve 7 of the 21 applications to move forward to public hearing. The seven applications are:

1. **MALPF-11-01 Coblentz- Oakland Farms, LLC** – approximately 185.93 acres
2. **MALPF-11-02 John & Meleah Wright**- approximately 196.3 acres
3. **MALPF-11-03 Robert & Susan Cline**- approximately 162 acres
4. **MALPF-11-04 Brian Blickenstaff** – approximately 122.1 acres
5. **MALPF-11-05 Thomas & Brenda Ripley**- approximately 23.27 acres
6. **MALPF-11-09 Garvin Tankersley III**- approximately 140.85 acres
7. **MALPF-11-11 Aaron Venables**- approximately 88.685 acres

Staff finds the applicants' meet the requirements for the MALPF Program and are consistent with the Comprehensive Plan designation. Staff recommends a finding of consistency with the Comprehensive Plan designation for the applicant properties to potentially be under a permanent agricultural preservation easement.

PLEASE NOTE BOTH AUDIO AND VIDEO ARE AVAILABLE UPON REQUEST.

FREDERICK COUNTY PLANNING COMMISSION
Meeting Minutes
August 11, 2010

Staff Presentation:

Anne Bradley presented the Staff report along with a PowerPoint Presentation.

Public Comment:

None

MOTION: Mr. White made a motion for a finding of consistency of the seven (7) applications recommended by Staff 2nd by Mr. Floyd.

White/2nd Floyd - Approved 7-0-0-0

Yeas-7 (White, Floyd, Wolfe, Forrence, Hagen, Lawrence, McClurkin), Nays-0, Abstain- 0, Absent- 0

PRIORITY FUNDING REVISIONS

- a. **County Priority Funding Areas** – Presentation of revisions to the County's Priority Funding Areas, which was first approved in 1989.

Staff Findings/Recommendations:

With the recent adoption of the 2010 County Comprehensive Plan in April 2010, Staff has prepared revisions to the Priority Funding Area (PFA) mapping. The revisions are based on changes in zoning, water/sewer plan classifications, and growth area boundaries from the adopted plan.

The following highlight the 2010 revisions to the 1998 PFA's:

- Overall the County PFA's are reduced to the contraction on many Community Growth Areas (CGA's) and the removal of zoning.
- The Municipal PFA's reflect all annexations that have taken place since 1998.
- The Braddock Heights Rural Community is proposed to change from a County PFA to the Rural Village PFA category.
- The Lewistown Rural Community is proposed as a new Rural Village PFA.
- The Heart of the Civil War Heritage Area (HCWHA) is added to reflect those portions of the Heritage Area that are within a locally designated growth area.

Staff recommends the Planning Commission send a favorable recommendation to the Board of County Commissioners.

Staff Presentation:

Jim Gugel presented the Staff report along with a PowerPoint Presentation.

Discussion:

During Mr. Gugel's presentation, he explained the types of PFA's categories with which criteria is set to determine which properties would be eligible for designation as a PFA as Industrial and Employment Areas, Existing Communities, Areas Other than Existing Communities, Rural Villages, Municipalities, and Other Pre-Defined Areas.

Mr. Floyd stated that during the discussion of the PFA type -Industrial and Employment Areas, quarries were mentioned and he questioned whether the quarries are actively being used today.

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FREDERICK COUNTY PLANNING COMMISSION

Meeting Minutes

August 11, 2010

Mr. Gugel stated he could not vouch for new quarries but that the Lehigh Quarry and the Essroc Quarry are the only two quarries that fit into the category that as we go forward, may be ceasing operation. At that point is when there would be opportunity for Staff to look at whether the PFA designation is still appropriate. But, as of right now, Planning is still maintaining PFA on those particular properties.

Mr. White asked for clarification of the areas on the PFA map that are categorized as "*Not Meeting Criteria*."

Mr. Gugel stated there were inconsistencies in how the PFA's were applied. State reviews the County's PFA map and identifies whether a PFA designation is a *Compliance Area/Eligible for Funding* or is an *Area Not Meeting Criteria*. He stated that the County in 1998 did not strictly adhere to the criteria that the State identified and it did not appear that the State was applying the criteria consistently in its review of the County's 1998 PFA map since properties with similar zoning and water/sewer plan classification were shown as *Compliance Area* in some cases and in others were in the *Area Not Meeting Criteria* category. If a project is located within a County certified PFA but is shown on the State's map as an *Area Not Meeting Criteria*, then the project would not be eligible for state funding unless the area is able to full meet the PFA criterion. With the proposed revision, Staff is proposing a stricter adherence to the State's PFA criteria to minimize if not eliminate *Areas Not Meeting Criteria* on the State PFA mapping.

The Commission and Staff discussed the I-70/Meadow Road project as an example.

Mr. Gugel stated that project got in to the State's program and some of the work was started. Then it was determined that it did not meet the PFA criteria because some of the properties adjoining the interchange were not in a PFA. The State decided to put the project aside until that PFA issue was resolved.

Mr. White asked for clarification as to whether this area as displayed with green hatched marking on the visuals presented to the Planning Commission members was being recommended for deletion.

Mr. Soter clarified that there are portions of this interchange project that are not meeting the criteria but it is not losing its PFA status as resolved with MDP.

Mr. Gugel stated there are three criteria that generally need to be met in order for the State to recognize an area as meeting the requirements for a PFA status. Properties within a Community Growth Area (CGA) would meet the PFA criteria. Properties with a Zoning designation other than Agricultural, R-1, or Resource Conservation would meet the PFA criteria. Properties with a Water/Sewer classification other than either Planned Service (PS) or No Planned Service (NPS) would meet the PFA criteria. The "5" classification was revised in 2008 to reduce the expected service timeframe from 7-20 years to 7-10 years, which is now consistent with the 10-year service area PFA criteria.

Mr. White, in relation to the Heritage Areas on the visuals provided, stated he did not see the full designation of the Heart of the Civil War Heritage Area as being a PFA.

Mr. Soter stated Staff had trouble mapping it. He explained the State legislation states another way to achieve PFA status is to be in a certified heritage area and also within the designated growth area. Everywhere the Heritage Area overlaps with a designated growth area will be a PFA. The trouble came with some of the areas going in and out of PFA status due to water/sewer changes and zoning. The final map that will be sent to the State will demonstrate how the areas meet the PFA designation. However, areas that have had issues in the past such as Buckeystown that currently and unexpectedly meets PFA status due to Heritage area

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FREDERICK COUNTY PLANNING COMMISSION
Meeting Minutes
August 11, 2010

requirements as well as traditional requirements, will most likely result in the State limiting the funding according to specific criteria like just the Heritage area.

Mr. Lawrence questioned why there are areas on the map, like on the west side of Walkersville, that is in the community growth area but have areas proposed for deletion, and create an enclave of a non-PFA status that is surrounded by areas with PFA status.

Mr. Gugel reiterated the criteria for PFA status and pointed out that the property in Walkersville is still zoned Agricultural, and does not have a 10-year water/sewer classification, thus does not meet the criteria although it is in a growth area. As Planning goes through subsequent plan updates and properties like this change in water/sewer classification or zoning or annexation, then amendments would be done to the map and their PFA status could likely change.

Public Comment:

None

MOTION: Mr. White made a motion sending a favorable recommendation on the funding area map, 2nd by Ms. Wolfe.

White/2nd Wolfe - Approved 6-0-1-0

Yeas-7 (White, Wolfe, Floyd, Forrence, Lawrence, McClurkin), Nays-0, Abstain- 1(Hagen), Absent- 0

ZONING TEXT AMENDMENT

- a. **ZT-10-03 Pawn Shop Text Amendment-** Public Hearing for proposed Zoning Text Amendment. The amendment is intended to permit "Pawn Shop" use in the General Commercial (GC) Zoning District under the permitted use category of Commercial Uses-Retail with Site Plan Approval.

Staff Findings/Recommendations:

The proposed Text Amendment would amend the Frederick County Code (Zoning Ordinance) as follows:

- Add Pawn Shop to Section 1-19-5.310 *USE TABLE* under the category of Commercial Uses- Retail
- Permit Pawn Shops in the General Commercial Zoning District with Site Plan approval
- Add a Definition for Pawn Shop in Section 1-19-11.100 *DEFINITIONS*

Staff recommends the Planning Commission send a favorable recommendation to the Board of County Commissioners.

Staff Presentation:

Mark Depo and Larry Smith presented the Staff report.

Discussion:

Mr. White stated pawn shop is a General Commercial (GC) use that he feels is not suitable for all GC zoned locations. He suggested that in the long term to look at the idea of investigating whether some categories in GC that may need to be in a more restrictive area and the appropriateness of such uses.

Mr. Lawrence stated he would prefer to see the pawn shop use as a use requiring special exception approval. The Board of Appeals in their analysis could then look at the specific site and specific use and could put such conditions that could preclude sale of certain types of merchandise such as weaponry and ammunition,

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FREDERICK COUNTY PLANNING COMMISSION
Meeting Minutes
August 11, 2010

although the Applicant related to this text amendment request proffered that he would not be selling such items.

Ms. Forrence stated that she does not necessarily see the use as shady and negative and that they serve a purpose for such item as musical instruments, educational tools such as microscopes, etc. She commented that auction houses sell weapons but questioned whether restrictions should be placed on Auction house uses.

Mr. Hagen stated pawn shops exist where there is a market for them but that the County won't necessarily become inundated with them. Only so many can be supported as there is value in having other business types within an area.

Public Comment:

Peter McDonald

MOTION: Mr. Lawrence made a motion to send a non-favorable recommendation of Case ZT-10-03 Pawn Shop Text Amendment, 2nd by Mr. White.

Lawrence/2nd White - Approved 4-2-1-0

Yeas-4 (Lawrence, White, Floyd, McClurkin), Nays-2 (Wolfe, Forrence), Abstain- 1 (Hagen), Absent- 0

MOTION: Mr. Lawrence made another motion to recommend a pawn shop text amendment to include the definition as proposed by Staff and that the use table 1-19-5.310 shall be designated with a special exception designation in the General Commercial (GC) category, 2nd by Mr. White.

Lawrence/2nd White - Approved 4-2-1-0

Yeas-4 (Lawrence, White, Forrence, McClurkin), Nays-2 (Floyd, Wolfe), Abstain- 1 (Hagen), Absent- 0

BEING NO FURTHER BUSINESS, THE MEETING ADJOURNED AT 12:24 P.M.

Respectfully Submitted,

Catherine Forrence, Chair

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